IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.1160 OF 2007
IN
MISCELLANEOUS APPLICATION NO.16 OF 2007
IN
CBI SPECIAL CASE NO.80 OF 2005

Mr.Varghese Vadakumcherry George ...Applicant.
V/s.
Central Bureau of Investigation ...Respondent.

Mr.K.B.Suresh i/b M.R.Khatri, advs. for the Applicant.
Mr.D.P.Adsule, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 24th April, 2007.

P.C.:

1. The present applicant is accused no.1 in Special Case No.80 of 2005 filed by C.B.I.. The applicant is charged under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act and under Section 120(B) read with Section 420, 460, 467, 468 and 471 of the I.P.C. The applicant, who is engineer by qualification, is carrying on his business with the help of financial assistance from the banks. In view of his business commitments, he is required to travel abroad from time to time. On his application by an order dated 22nd May, 2006 he was permitted to travel abroad subject to his depositing Rs.10 lakh as security in the Court with direction that on his return, amount

should be refunded to him. This condition was imposed because at that time according to the C.B.I., amount involved in the commission of crime was about Rs.3 crores. The applicant availed benefit of that order. Again he made an application seeking permission of the Court to travel abroad between 13th January, 2007 to 18th March, 2007 and he also requested not to impose the condition of deposit of Rs.10 lakh because even as per the C.B.I. the actual amount involved in the crime was Rs.24 lakh and not Rs.3 crores. After hearing the parties, the learned Special Judge granted permission to the applicant to travel abroad by an order dated 15th January, 2007. However, the Court imposed the condition of depositing Rs.10 lakhs as additional security on the ground that condition was imposed by his predecessor and he could not review the same because he is not sitting either in appeal or review over the said order. Being aggrieved by this condition, the applicant has come to this Court.

2. Heard Mr.K.B.Suresh the learned counsel for the applicant. In spite of service of notice, none appeared for the C.B.I. Mr.Adsule is present for the State of Maharashtra, the respondent no.2.

3. Taking into consideration the facts and

circumstances noted above, it is clear that as according to the C.B.I. amount of Rs.3 crores was involved in the crime, the Special Judge, while passing the final order, found necessary to impose the condition of additional security of Rs.10 lakhs but when the latter order dated 15th January, 2007 was passed, it was made clear to the Court that on fresh look to the facts, the amount involved was only Rs.24 lakhs and not Rs.3 crores as stated earlier. The conditions attached to such order pertaining to the permission to travel abroad, have to be commensurate with the nature of the offence and cannot be disproportionate to the same. In my opinion, the condition to deposit Rs.10 lakhs for permission to travel abroad in the offence involving amount of Rs.24 lakhs is most unreasonable and can not be sustained. In fact whenever the occasion arises, the Court has to pass such order and impose the condition depending on the facts and circumstances available. It was not correct on the part of Special Judge to say that he could not modify the condition because he is not sitting either in appeal or review over the said order. Taking into consideration the circumstances of the case and the occupation of the present applicant, I find that the condition of depositing Rs.10 lakhs as additional security is absolutely unnecessary.

5. Therefore, application is allowed. The applicant is allowed to travel abroad as per the order passed by the Special Judge on 15-1-2007 without condition to deposit an amount of Rs.10 lakh as additional security.

(J.H.Bhatia,J.)